

KDL

June 30, 2012

Kenneth Landau, Assistant Executive Officer
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive
Suite 200
Rancho Cordova, CA 95670

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Re: Complaint R5-2012-0515

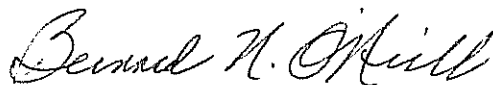
Dear Mr. Landau:

Attached is the Lease Agreement between the Marings and me. Please see that the Board handling this case receives it.

Again, as a passive landlord I receive fixed cash rental payments. I have no control over farming operations, including the choice of crops to plant.

Again, in the Marings defense the month after these incidents the Marings installed a new drip system, which was delayed pending loan approval.

Sincerely,



Bernard N. O'Neill

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LEASE

This Lease is made the 17th of September, 2010 and entered into by and between, **Bernard N. and Barbara C. O'Neill Trust**, hereinafter referred to as "Lessor", and **Jon E. Maring and/or Zachary J. Maring**, hereinafter referred to as "Lessee".

IT IS AGREED BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. **DESCRIPTION OF PREMISES:** The Lessor hereby Leases to the Lessee and Lessor hires from the Lessor on the terms and conditions hereinafter set forth in this Lease. The property is located in the County of Stanislaus, State of California, described on Exhibit "A" which is attached hereto and made a part hereof as if set forth in full herein.
2. **TERM:** The term of the within Lease shall be for a minimum of a three year period commencing on October 1, 2010 and ending no sooner than October 1, 2013, provided that Lessee shall have until the 15th of December 2013 to harvest and remove any crop planted on the premises during the term of the Lease. During August of 2011, the parties shall confer and make such modifications as they deem appropriate for the continuance of the LEASE for the period beginning October 1, 2013. If no agreements are reached, the Lease shall continue for another year on the same terms and conditions. If either party desires termination as of September 30, 2013, written notice shall be given to the other party within said month of August. This Process shall continue for each August thereafter and, unless this Lease is terminated, it shall continue for the coming year and for an additional year. (The lease will be in effect for a minimum of three (3) years.)
3. **RENT:** The rent payable by the Lessee to the Lessor for the use and occupation of the premises shall be Three Hundred Dollars (\$300.00) per acre per year. Said rent shall be payable as follows: First half March 1st, second half November 1st with any crop share upon completion of harvest of each year's crop or December 1st, whichever first occurs, commencing December 1, 2011.
4. **CROP SHARE OF CANNERY TOMATO CROPS:** In the event the premises, or any portion thereof are planted to cannery tomatoes, Lessor shall be entitled to fifteen percent (15%) of said crop, with the cash rent, being the minimum guarantee. The cash rent, therefore, applies as a credit on the cash value of the sold share of the crops of tomatoes produced on said premises. Lessee shall deliver to Lessor, a complete recapitulation of the summary of the crop and sale.
5. **TAXES:** All real property taxes, levied by the County of Stanislaus and the Central California Irrigation District, shall be paid by the Lessor. Supplemental taxes incurred by the installation of irrigation equipment shall be paid by Lessee upon receipt of the tax bill from the Lessor.
6. **FARMING PRACTICES:** Lessee shall farm said property and till and cultivate the demised premises at all times when necessary and in a good and farmer-like manner. LESSEE shall not suffer any waste to be committed on the demised

premises, nor cause said property to be irrigated in an improper manner. Further, said LESSEE will do all acts necessary to insure proper drainage of the demised premises.

7. **REPAIRS, ETC:** LESSEE, at his sole cost and expense, shall keep in good order, condition and repair, all improvements located on the real property as described on Exhibit "A", including the boundary fences and/or markers, bridges, irrigation boxes, ditches, pipelines, pumps and other such improvements.
In addition, LESSEE shall keep any and all ditches free and clear from weeds and other obstructions which will interfere with the free flow of water through.
LESSEE shall further keep the premises free and clear of all rodents, pests, and/or noxious weeds and grasses and will conduct all operations practices in the community to prevent their growth on the premises:
The LESSOR shall be the sole judge of what repairs and/or remedial or preventative measures shall be necessary.
8. **ASSIGNMENT:** LESSEE shall have the right to joint venture or sublease at his discretion provided all terms of this lease remain the responsibility of the original Lessee.
9. **ENTRY:** The LESSEE will allow the LESSOR, its agents or representatives, at all reasonable times, to enter upon said premises for the purpose of inspecting the same and/or making repairs or improvements thereon.
10. **WORKMAN'S COMPENSATION INSURANCE:** LESSEE shall, at all times during the term hereof, keeping full force and effect an adequate policy of Workmen's Compensation Insurance with a carrier approved by LESSOR, insuring all persons who may be employed on said premises during the term herein.
11. **LIABILITY:** LESSEE will hold the LESSOR harmless from any and all liabilities arising from his use of the premises, whether it be property damage or personal injury and to that end will maintain adequate liability insurance with limits not less than One Million Dollars (\$1,000,000.00) for any one person and Three Million Dollars (\$3,000,000.00) for any one accident. LESSEE shall name LESSOR as an additional insured on said insurance policy and shall direct the insurance carrier to deliver to the LESSOR annually, a certificate of such insurance as well as notify LESSOR of any cancellation thereof.
12. **FARMING COSTS:** LESSEE shall pay all costs incurred for the planting and growing, fertilizing, nurturing, irrigation (including irrigation water) and harvesting of crops.
13. **RE-ENTRY:** In the event the LESSEE does not pay all rents, deliver crops specified or keep all provisions of this Lease, then, and from the time of breach, it shall and may be lawful for the LESSOR to enter into and upon said premises and every part thereof without legal process and to repossess and enjoy the land at their option and they may recover from LESSEE all damages proximately caused by LESSEE'S act.
14. **WAIVER:** Acceptance of the LESSOR of past due or delinquent rents, or failure to insist on strict performance of the terms hereof by the LESSEE, shall not be

considered as a waiver of this Lease, or the waiver of any portion of this Lease, or a waiver of any of the rights reserved to the LESSOR.

15. **LEINS:** LESSEE agrees that he will not allow nor cause nor permit any laborers' or mechanic's liens or other liens of any type or description to attach to the demised premises during the term hereof.
16. **CONDITIONS UPON TERMINATION:** LESSEE shall leave the premises in good condition and shall disc all fields at least once after the final harvest of crops during the term of Lease.
17. **OIL, GAS AND MINERAL RIGHTS:** It is understood and agreed that LESSOR reserves all oil, gas and mineral rights, together with the right to lease said premises for prospecting and/or drilling for oil, gas, or other minerals' substances, and the right to construct roads and pipelines and generally do all and every action on said premises, necessary and convenient for the prospecting and production of oil, gas, and other minerals' substances. LESSOR shall pay LESSEE for all damages incurred or done to growing crop caused by such construction and/or prospecting.
18. **MISCELLANEOUS PROVISIONS:**
 - A. **Attorney's Fees:** Should legal action arising from this Lease, be commenced between the parties, the prevailing party shall be entitled, in addition to all other appropriate relief, reasonable attorney's fees as awarded by the court.
 - B. **Counterparts:** This Lease may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become a binding agreement when one or more counterparts have been signed by each of the parties and delivered to the other parties.
 - C. **Singular, Plural, Gender:** In this Lease; where applicable, references to the singular; in addition, where applicable, all references to the masculine gender shall include the feminine gender.
 - D. **Headings:** The headings in the Agreement are included for convenience of reference only, and shall not affect the construction or interpretation of any of its provisions.
 - E. **Successors and Assigns:** This Lease shall be binding upon inure to the benefit of the heirs, successors and assigns of the parties hereto.
 - F. **Notices:** All notices and other communications hereunder shall be in writing and shall be deemed to have been a duly given if delivered or if mailed by first-class mail with postage prepaid:

If to LESSOR, to: Bernard N. and Barbara C. O'Neill Trust
2121 Garden Circle West
Manteca, CA 95336

If to LESSEE, to: Jon E. Maring and/or Zachary J. Maring
P.O. Box 97
Westley, CA 95387

- G. Governing Law:** This Agreement shall be governed by, interpreted, and constructed under the State of California.
- H. Entire Agreement:** The parties declare and represent that no promise, inducement, or agreement not herein expressed has been made by or to any party, and that this written lease contains the entire agreement between the parties hereto relating to the subject matter of this Lease. This Lease may not be modified, altered, or amended except by a writing signed by all parties.
- I. Time of Essence:** Time is of the essence in this Lease.
- J. Severability:** If any term, provision, covenant, or condition of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the rest of the Lease shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

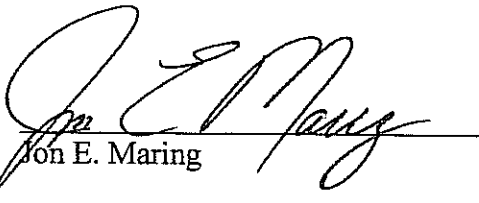
IN WITNESS WHEREOF, the parties have hereunto set their names, the day and year first above written.

LESSOR:

LESSEE:



Bernard N. O'Neill Trustee



Jon E. Maring

Barbara C. O'Neill Trustee

Zachary J. Maring

EXHIBIT "A"

That certain real property situated in the County of Stanislaus, State of California.

Described as follows:

Borba Ranch APN# 27-18-31 Field# 323 53 Acres

PAYMENT SCHEDULE OF RENTS

<u>Due Date</u>	<u>Property</u>	<u>Amount</u>	<u>Check#</u>
March 1, 2011	Borba Ranch	\$ 7,950.00	
November 1, 2011	Borba Ranch	\$ 7,950.00	
March 1, 2012	Borba Ranch	\$ 7,950.00	
November 1, 2012	Borba Ranch	\$ 7,950.00	
March 1, 2013	Borba Ranch	\$ 7,950.00	
November 1, 2013	Borba Ranch	\$ 7,950.00	